



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
10/593,761	11/06/2006	Kris Vandermeulen	31118/DY0402	9126		
4743	7590	11/26/2008	EXAMINER			
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606				FERGUSON SAMRETH, MARISSA LIANA		
ART UNIT		PAPER NUMBER				
2854						
MAIL DATE		DELIVERY MODE				
11/26/2008		PAPER				

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/593,761	VANDERMEULEN, KRIS	
	Examiner	Art Unit	
	MARISSA L. FERGUSON-SAMRETH	2854	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 November 2008.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15, 17-19, 21, 23 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) 1-15, 17-19, 21, 23, 24, 26 and 27 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 25 and 28 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 September 2006 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>10/17/06</u> .	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group XI in the reply filed on 11/17/08 is acknowledged. The traversal is on the ground(s) that "claims 1-20, 23 and 25 -28 share an inventive concept and examining the claims in a single application would not place an undue burden on the examiner". These arguments are not found persuasive. The applicant is directed to MPEP 806.07(c) paragraph III, regarding plural combinations requiring a subcombination common to each combination. This section of the MPEP states that:

"When an application includes a claim to a single subcombination, and that subcombination is required by plural claimed combinations that are properly restrictable, the subcombination claim is a linking claim and will be examined with the elected combination. The subcombination claim links the otherwise restrictable combination inventions [...]. The claimed plural combinations are evidence that the subcombination has utility in more than one combination."

This situation is similar to the present application with claim 1 being the single subcombination and the generic linking claim. Therefore, the restriction requirement has authority.

Therefore, the inventions are patentably distinct for the reasons set forth in the restriction requirement. Hence, the burden in the examination of multiple inventions lies in consideration of the patentably distinct inventions in one application.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 1-24, 26 and 27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/17/08.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

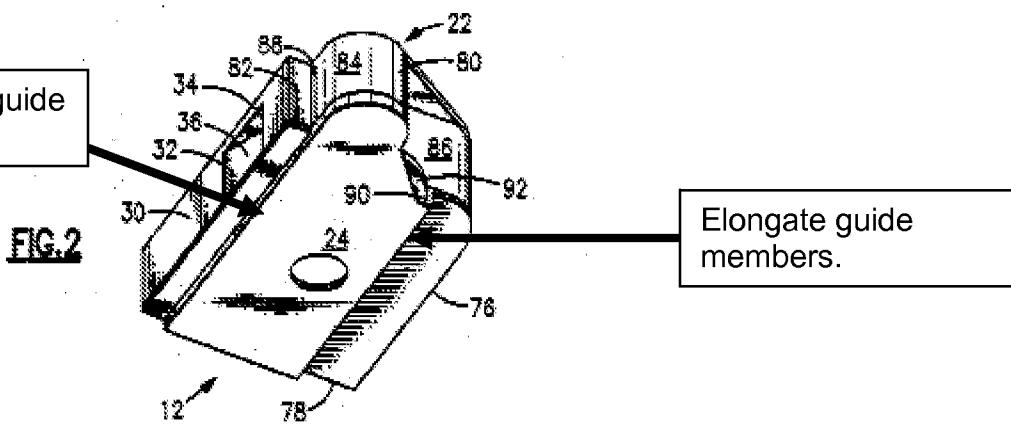
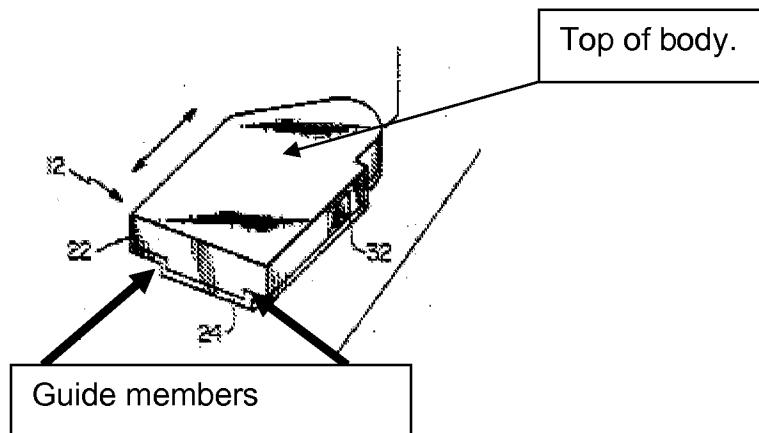
Claims 25 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Pearce et al. (US Patent 5,435,657).

Regarding claim 25, Pearce et al. teaches a body (12) having a base (24), a top (refer to figure on page 4 of the detailed action), and sides (30, 76) extending from the base to the top, the body housing a roll of print receiving medium (50) having an axis of rotation extending in a first direction, the body having a guide member (refer to figure on page 4 of the detailed action) on each of two opposing sides extending along said sides in a second direction perpendicular to the first direction for guiding the tape cassette into a tape printer (10) in the second direction and locating the tape cassette in the tape printer (Figure 1).

Regarding claim 28, Pearce et al. teaches wherein each guide member comprises a first elongate member disposed in a plane perpendicular to the opposing

Art Unit: 2854

sides and a second elongate member disposed in a plane parallel to the opposing sides (refer to figures below).



Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 - a. Chvojcek et al. (US Patent 6,422,771) teaches a ribbon cartridge.
 - b. Unno et al. (US 6,406,202) teaches a tape cartridge and tape printing apparatus.

c. Cockerill et al. (US Patent 6,074,113) teaches a tape printer with cutter and guide mechanism.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARISSA L. FERGUSON-SAMRETH whose telephone number is (571)272-2163. The examiner can normally be reached on (M-T) 6:30am-4:00pm and every other(F) 7:30am-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on 571-272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Judy Nguyen/
Supervisory Patent Examiner, Art Unit 2854

MARISSA FERGUSON-
SAMRETH
Examiner
Art Unit 2854

MFS